

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34

CREWS UNLIMITED OF CONNECTICUT, INC.

Employer

and

INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, MOVING PICTURE
TECHNICIANS, ARTISTS AND ALLIED CRAFTS
OF THE UNITED STATES, ITS TERRITORIES
AND CANADA, AFL-CIO, CLC

Petitioner

Case No. 34-RC-1841

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. Although duly notified, the Employer failed to appear at the hearing in this matter or otherwise provide requested evidence concerning the effect of its operations on interstate commerce. Nevertheless, the record reveals that the Employer is engaged in the business of supplying employees to various entities which provide entertainment services in Connecticut, and that it is currently provides such services valued in excess of \$50,000 to the Meadows Music Theater (herein called the Meadows), an entity

directly engaged in interstate commerce.¹ Based upon the above, and noting that the Employer has failed to cooperate in the production of evidence concerning the effects of its operations interstate commerce (*Tropicana Products, Inc.*, 122 NLRB 121, 123-124 (1953)), I find that the Employer is engaged in commerce within the meaning of the Act, that its operations substantially affect interstate commerce and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner seeks to represent the approximately 70 stagehands employed by the Employer who are assigned to assist in the setup, presentation, and tear down of various musical events produced at the Meadows and other vendors in Connecticut. This unit appears to be Employer-wide in scope and, as such, is appropriate for the purposes of collective bargaining.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All stagehands employed by the Employer at the Meadows Music Theater, and other locations in Connecticut, including riggers, lighting technicians, audio technicians, loaders and general laborers; but excluding all other employees, and guards, professional employees, and supervisors as defined in the Act.

¹

I take administrative notice of the fact that the Meadows is operated by SFX Entertainment, Inc., (hereinafter called SFX) an international producer of over 23,000 live entertainment events attended by more than 60 million patrons during 1999. Moreover, the record reveals that apart from the operations of SFX, the Meadows, which annually receives goods and materials valued in excess of \$50,000 from outside the State of Connecticut, produces approximately 28 major concerts a year. In view of the foregoing, I am satisfied that the Meadows meets the Board's retail standard for asserting jurisdiction over enterprises in the entertainment industry.

DIRECTION OF ELECTION ²

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently. In order to optimize employee enfranchisement without enfranchising individuals with no real continuing interest in the Employer's terms and conditions of employment, eligible to vote are those employees in the unit who were employed during the payroll period ending immediately preceding the Notice of Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. These eligible employees shall vote whether or not they desire to be represented for collective bargaining purposes by International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists & Allied Crafts of the United States, its Territories and Canada, AFL-CIO, CLC.

²

The record reveals that the Meadows' operations are seasonal, running from mid-May to early September. The record further reveals that the employees in the petitioned-for unit are selected for each event staffed by the Employer from a roster of call employees and, if necessary from a list of job applicants who sign up during a job fair held each year at the Meadows. The Petitioner has requested, and I so find, that eligibility to vote in the election directed herein shall be limited to those employees who average four hours or more of work per week for the calendar year immediately preceding the payroll eligibility date. *Trump Taj Mahal Associates, etc.*, 306 NLRB 294 (1996).

To ensure that all eligible employees have the opportunity to be informed of the issues in the exercise of their statutory rights to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the issuance of the Notice of Election, the Employer shall file with the undersigned, an eligibility list containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make the list available to all parties to the election. No extension of time to file this list shall be granted except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by September 1, 2000.

Dated at Hartford, Connecticut this 18th day of August, 2000.

/s/ Peter B. Hoffman
Peter B. Hoffman, Regional Director
Region 34
National Labor Relations Board

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